
CHAPTER 5: Sites of Environmental Contamination, Property Transfers, and Liability Issues

Purpose and Applicability of Regulations

Any commercial or industrial site where chemicals are being stored or used, has the potential of becoming a site of environmental contamination. Lithographic printing facilities are no exception. Hazardous chemicals may be released onto the property accidentally, unknowingly or intentionally, resulting in significant contamination of the soil and groundwater. When this occurs, property owners, liable parties, and sometimes governments, may have to spend considerable amounts of money to clean up the contamination. This problem can often be avoided through careful handling of chemicals and prompt response to any inappropriate releases, as discussed in other chapters of this guidebook.

Because of the potential for lithographic printing facilities to become sites of environmental contamination, you must be concerned about liability.

Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended (Act 451), regulates sites of environmental contamination in Michigan. Other laws and regulations may also apply, especially if you have underground storage tanks. The balance of this chapter describes provisions of **Part 201**. Even if you are primarily regulated under other specific authorities, you may also have to comply with certain portions of **Part 201**, especially the “Due Care” requirements that are discussed later in this chapter. If you need assistance in determining which regulations apply to your business, contact the Michigan Department of Environmental Quality (MDEQ) district office (see Appendix C for phone numbers) that serves your area.

Under **Part 201**, a person who owns or operates property that is contaminated is responsible for taking certain actions to address the contamination if they are responsible for the activity that caused the release. These responsibilities, often referred to as “affirmative obligations,” are discussed below.

In addition to the cleanup obligations imposed by **Part 201** on liable parties, **Part 201** requires persons who own or operate contaminated property to exercise “Due Care” with respect to contamination on their properties. These provisions assure that contaminated property is used in a way that protects public health and safety and does not worsen existing contamination. With limited exceptions, Due Care obligations apply to all owners and operators, even if they are not liable for the contamination.

In This Chapter . . .

- 5.1 Obligations of Parties Causing Contamination
- 5.2 State Cleanup Standards
- 5.3 “Due Care” Requirements
- 5.4 Due Diligence and Baseline Environmental Assessments
- 5.5 Summary
- 5.6 Where To Go For Help

During a real estate transfer, the issue of contamination may be raised for the first time. Buyers of property and their lenders do not want to inherit the liability of cleaning up contamination

caused by someone else. This is a concern at businesses because the chance of finding some existing contamination may be quite high. In order to be exempt from liability for any existing contamination on property where you become an owner or operator (this includes most lessees) after June 5, 1995, you need to perform a Baseline Environmental Assessment (BEA). BEAs and Due Care obligations are described in more detail in the following sections.

*Note: Table 5.0 beginning below contains definitions of the various regulated groups of material found in this chapter. These defined terms appear throughout this chapter in bold lettering. In some instances, multiple agencies use the same term to describe a regulated group of material; however, its definition differs. Such terms will be followed by a dash and the acronym of the defining agency or regulation (e.g., **hazardous substance-CERCLA** and **hazardous substance-Part 201**).*

The **Part 201 of Act 451** cleanup program is administered by the Remediation and Redevelopment Division (RRD) of the MDEQ. The RRD has developed administrative rules to implement **Part 201**. Rules related to BEAs (**R 299.5901-5919**) and Due Care (**R 299.51001-51021**) were promulgated in March 1999. Copies of all current **Part 201** rules are available from the RRD and on the Internet at www.michigan.gov/deq.

Table 5.0 Definitions of Regulated Materials

CAA Section 112(r)	Any of 77 toxic substances and 63 flammable substances. Substances regulated under the accident prevention provisions of Section 112(r) of the Clean Air Act (CAA) and listed in Title 40, Part 68 of the Code of Federal Regulations . To obtain a list of CAA Section 112(r) substances, see the “List of Lists” below.
Hazardous Substances-CERCLA	A substance subject to reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and listed in Title 40, Part 302, Table 302.4 of the Code of Federal Regulations . To obtain a list of CERCLA hazardous substances, see the “List of Lists” below.
Hazardous Substance-Part 201	As defined under Part 201 of Public Act 451 . “Hazardous substance” means one or more of the following, but does not include fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants, that are applied to the land for an agricultural use or for use as an animal feed, if the use is consistent with generally accepted agricultural management practices developed pursuant to the Michigan Right-to-Farm Act : (i) any substance that the department demonstrates on a case-by-case basis that poses a threat to the public health, safety, or welfare of the environment, considering the fate of the material, dose-response, toxicity, or adverse impact on natural resources; (ii) hazardous substance-CERCLA ; (iii) hazardous waste-DEQ , (iv) petroleum as described in Part 213 of Act 451 .

Hazardous Waste-DEQ	As defined in Part 111 (Waste Management) of Public Act 451 of 1994 . "Hazardous waste" is waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that, because of its quantity; quality; concentration; or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, or disposed of, or otherwise managed.
List of Lists	The EPA has consolidated a number of the lists described above into one document known as the "List of Lists." This document contains the lists of extremely hazardous substances, hazardous substances-CERCLA, CAA Section 112(r) substances, and toxic chemicals. You can obtain this document by contacting the DEQ, SARA Title III Program at 517-373-8481 or via the Internet at www.epa.gov/deppo/pubs/title3.pdf for the document or http://130.11.53.73/ for a searchable data base. Access this site and click on "List of Lists" to download the file. The "List of Lists" is available in a searchable format at www.michigan.gov/deq . Click on "Assistance and Support Services" then Environmental Reporting."

5.1 Obligations of Parties Causing Contamination

If you own or operate property that you know is a "facility" and you caused the contamination, you have specific affirmative obligations to address the contamination. These obligations also apply to a person who owned or operated a facility on or after June 5, 1995, but who subsequently sold that property, if that person caused the contamination. A "facility" is defined by **Part 201** as any area, place, or property where a **hazardous substance-Part 201** is present in a concentration that exceeds the established state cleanup standard for residential property (state cleanup criteria information can be obtained via the MDEQ's web site at **www.michigan.gov/deq**). You must carry out your affirmative obligations even if the MDEQ has not directed you to take action. Your affirmative obligations include: immediately stopping a release at its source; controlling or eliminating all fire, explosion, and direct contact hazards; immediately removing and disposing of liquid phase **hazardous substances-Part 201**; and investigating the nature and extent of the contamination. You also have an affirmative obligation to promptly conduct a cleanup that satisfies the cleanup criteria under **Part 201**. These obligations apply to historical contamination as well as new spills. The affirmative obligations are spelled out in **Section 20114 of Act 451**. If you have questions, contact your RRD district office (see Appendix C for phone numbers) for help in identifying your affirmative obligations.

Under **Part 201 of Act 451**, you are not liable for the cost of cleanup actions if:

You have not done anything to cause a release of a **hazardous substance-Part 201**; and you own or operate a contaminated property and you acquired that property BEFORE June 5, 1995; or

You purchase or begin operation at a contaminated property on or AFTER June 5, 1995; **and** You conduct an adequate BEA of your property prior to or no later than 45 days after purchase or start of operation (more information on BEAs is provided later in this chapter); **and** You were not responsible for a release after you purchased or occupied the property.

The same liability principles apply to people who control, but do not own, property. We call them “operators.” People who lease property are often operators.

5.2 State Cleanup Standards

Part 201 of Act 451 authorizes the MDEQ to set cleanup standards by considering how the contaminated land will be used in the future. Michigan’s cleanup standards are risk-based and reflect the potential for human health risk from exposure to potentially harmful substances at contamination sites. The RRD can send you cleanup standards and other technical guidance you need to make land use-based decisions about contaminated property (see **Part 7 of the Part 201 Rules** and other technical support documents which can be accessed via the MDEQ’s web site at www.michigan.gov/deq).

A “facility” is defined by **Part 201** as any area, place, or property where a **hazardous substance-Part 201** is present at a concentration that exceeds the established state cleanup standard for residential property. Property is no longer a facility when actions are taken to remove, reduce, or treat the contamination to levels that meet the **Part 201** residential cleanup standards. If you are cleaning up a facility, you can choose an appropriate category of cleanup standard based on the proposed property use. There are currently three main categories of land use-based cleanup standards: residential, commercial, and industrial. The residential cleanup standards are the most restrictive criteria for site remediation because it is assumed that there is the greatest likelihood for exposure to contamination to occur in residential settings, especially for children. When a facility is cleaned up to residential standards, the property is considered safe for all uses.

If you choose to clean up your property based on commercial or industrial criteria, you must demonstrate that your chosen category is appropriate for future land use and consistent with zoning at the property. No additional property restrictions are required, other than limiting the use of the property to commercial or industrial activities consistent with the zoning of the property.

Three additional categories of cleanup standards include limited residential, limited commercial, and limited industrial. These “limited” categories exist for circumstances that require property use restrictions beyond just zoning limitations or exposure barriers (i.e., fencing, paving, etc.) to keep people from being exposed to on-site contamination now and in the future. If you propose to clean up your property based on any of the limited categories, certain restrictions must be placed on the property deed to ensure that the use restrictions and exposure barriers remain in place.

Michigan law also provides for cleanups based on recreational land use, although cleanup standards have not been developed to date. Site-specific recreational criteria must be proposed

and supported in a Remedial Action Plan (RAP). The variety of protective land use-based cleanup options shows just how much flexibility there is in Michigan's **Part 201** cleanup program.

5.3 “Due Care” Requirements

“Due Care” is applicable to a person who owns or operates property that he/she knows is a “facility” under **Part 201**. You need to remember that even if you are not liable for the contamination on a piece of property you purchase, you still have the Due Care obligations.

Section 7a of Part 201 requires a person who owns or operates contaminated property that he/she knows is a facility (regardless of whether the person is liable under **Section 26 of Part 201**) to do all of the following:

1. Prevent exacerbation. This means you must not cause the contamination to migrate beyond the boundaries of the property or make a change in the facility conditions that would increase response activity costs. For example, if you conducted activities on your property that changed the ground water flow rate and direction, causing the existing contamination to move onto neighboring parcels, you have made the problem worse and potentially more costly to clean up. You will become responsible for the cost of responding to that increased area of contamination.
2. Take measures to prevent human exposure to **hazardous substances-Part 201** if existing conditions at the property will result in unacceptable exposure levels, and take measures to mitigate fire and explosion hazards due to the presence of **hazardous substances-Part 201**. An example of an action required under this provision is providing for cover (e.g., landscaping or pavement) to prevent contact with contaminated soil at the ground surface.
3. Take reasonable precautions against the foreseeable actions of other people that could spread or exacerbate contamination or cause them to be exposed to contamination. An example of an action required by this provision is putting up a fence to prevent trespassing if a trespasser could come into contact with **hazardous substances-Part 201** in a lagoon or other containers on your property.

There are limited exceptions from Due Care requirements. The exception that is potentially relevant for manufacturers is that a person whose property is affected by contamination migrating onto that property from an off-site source is exempt from the obligations to mitigate unacceptable exposures and take reasonable precautions. No one is exempt from the obligation not to exacerbate contamination.

The Due Care rules (**R 299.51001-51021**) contain detailed compliance requirements, including notification to the MDEQ about certain conditions on forms developed by the department. The Due Care rules are available from RRD district offices (see Appendix C for phone numbers) or at www.michigan.gov/deq. The forms mentioned below are available from the same sources. Deadlines for completing the required notices are contained on the forms, in the rules, and in the instructions for preparing a BEA.

Section One—Environmental Regulations

The Due Care rules require that all of the following actions be taken by persons who have knowledge that their property is a facility:

1. Report discarded or abandoned containers. A form is provided for making this notice: *“Notice Regarding Discarded or Abandoned Containers” (EQP 4476)*.
2. Report to the MDEQ and to adjacent, affected property owners about contamination that emanates on and is migrating off the property that has already, or is likely to, migrate beyond the boundaries of the property owned or operated by a person who knows that their property is contaminated. A form is provided for making this notice: *“Notice of Migration of Contamination” (EQP4482)*.
3. Provide notice to easement holders about contamination at the property if that contamination could pose a risk to people conducting work authorized by the easement.
4. Provide immediate notice to local fire officials about fire and explosion hazards at the facility and followup notice to MDEQ if a fire or explosion threat is not permanently abated by actions of local fire officials.
5. Prepare documentation of compliance with Due Care, which must be kept on file at the facility and provided to MDEQ staff upon request. Documentation of Due Care compliance has three components: (1) evaluate exposures that may occur as a result of the intended use of the property; (2) determine which exposures require mitigation (i.e., there is a potential for exposure to **hazardous substances-Part 201** at concentrations exceeding the relevant land use-based cleanup criteria for that exposure); and (3) document what mitigation measures were implemented and how those measures are maintained. People who owned, operated, or leased property before or on March 11, 1999, were required to have Due Care documentation by March 11, 2000. A person who becomes an owner, operator, or lessor after March 11, 1999, must have this documentation within eight months after purchasing, operating, or foreclosing on the property.

You should keep copies of all notices submitted to the MDEQ, neighboring property owners, and easement holders. You can consider them part of your documentation of compliance.

Note that the exposures of concern for Due Care compliance are generally not all the exposures that have to be considered when conducting a remedial action. A remedial action has to address exposures based on allowable land use, whereas Due Care only has to account for those exposures that are likely to occur as a result of intended land use.

Violations of the Due Care requirements may leave you liable for the cleanup cost and damage to natural resources caused by worsened contamination. You may also be subject to fines and penalties.

5.4 Due Diligence and Baseline Environmental Assessments


5.4.1 Due Diligence

If you are purchasing property or moving your business to a new location, you should conduct “appropriate inquiry” into the nature of environmental conditions at the new property. Due diligence is the attempt to determine how the property was used in the past and what activities involving **hazardous substances-Part 201** took place there. If you have reason to suspect there may be some sort of environmental contamination, you should consider completing an environmental site assessment. You should review past activity on the property including land and chemical use; visually survey the property to look for signs of soil staining or other indicators of possible contamination; and if necessary, collect soil and ground water samples to evaluate environmental contamination problems. If your due diligence inquiry shows no reason to suspect environmental problems, a BEA is neither necessary nor appropriate. If contamination is discovered later that was caused by a past owner, well-documented due diligence protects the new owner from liability for that historical contamination.

There is no defined regulatory standard or check list for due diligence. What constitutes appropriate inquiry will vary from site to site, but it is based on good commercial or customary practice. Due diligence takes into account such issues as any specialized knowledge of the person conducting the inquiry, commonly known or easily obtainable information about the property, and the ability to detect a release or threat of release by appropriate inspection.

5.4.2 Baseline Environmental Assessments (BEAs)

The 1995 amendments to the state’s primary cleanup law, **Part 201 (Environmental Remediation) of Act 451**, allow people to purchase or begin operating at a contaminated property or facility without being held liable for existing contamination. To obtain liability protection, the new purchaser must conduct a BEA. A BEA is an evaluation of the environmental conditions which exist on a parcel of property at the time of purchase, occupancy, or foreclosure. BEAs are used to gather enough information about the property being transferred so that existing contamination can be distinguished from any new releases that might occur after the new owner or operator takes over the property. The new purchaser retains liability for any releases he or she causes. The BEA must reasonably define the existing conditions at the facility so that in the event of another release, there is a

<p style="text-align: center;">INSTRUCTIONS</p> <p style="text-align: center;">FOR</p> <p style="text-align: center;">PREPARING AND DISCLOSING</p> <p style="text-align: center;">BASELINE ENVIRONMENTAL ASSESSMENTS</p> <p style="text-align: center;">AND</p> <p style="text-align: center;">SECTION 7a COMPLIANCE ANALYSES</p> <p style="text-align: center;">TO THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY</p> <p style="text-align: center;">AND FOR</p> <p style="text-align: center;">REQUESTING OPTIONAL DETERMINATIONS</p> <p style="text-align: center;">Under the authority of Part 201, 1994 PA 451, as amended, and the rules promulgated thereunder</p> <p style="text-align: center;"></p> <p style="text-align: center;">MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY ENVIRONMENTAL RESPONSE DIVISION www.deq.state.mi.us John Engler, Governor Russell J. Harding, Director</p> <p style="text-align: center;">Effective Date: March 11, 1999</p>
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means of distinguishing the new release from existing contamination. Detailed information about BEA requirements is contained in the DEQ document entitled, *“Instructions for Preparing and Disclosing Baseline Environmental Assessments.”* This document is available upon request from RRD district offices (see Appendix C for phone numbers) or at **www.michigan.gov/deq**.

BEA categories:

The level of effort required to do an adequate BEA may vary with the type and amount of contamination on the property in question and the proposed **hazardous substance-Part 201** use. There are three categories of BEAs: “N,” “D,” and “S.” A Category “N” BEA is appropriate if you will not use **hazardous substances-Part 201**, and is relatively simple to do. If you are planning to use different **hazardous substances-Part 201**, a Category “D” BEA is needed, and if you will be using the same **hazardous substances-Part 201** that are present at the property as part of contamination, a Category “S” BEA is appropriate. A Category “S” BEA can be more complex and costly to complete, since your BEA must allow you to distinguish between new and old releases. For example, if you intend to operate a service station at a site which was previously a service station, this may require a Category “S” BEA, which requires much more information than if you intended to open a flower shop (Category “N” BEA) at the former service station.

Being able to distinguish new contamination from existing contamination depends on the type of contamination that exists at the site and what might be released in the future. If the potential contamination from the future use of the property is different from past use of the property, the amount of information needed on existing contamination is much less than if the future property use is going to be the same or similar to the past property use. It is more difficult to distinguish between “old” and “new” releases where the same chemicals were and are used. In some cases, engineering controls or isolation zones can be used instead of extensive environmental investigation in order to distinguish new releases from old.

Who should perform a BEA?

Most property owners rely on a professional consultant to perform site studies and conduct a BEA. You should consider hiring professional help to conduct your BEA. If you belong to a trade association, you might want to check with them to see if they have a list of firms that conduct BEAs; or find a firm listed in the yellow pages, usually under the “environmental” or “ecology” service headings. In addition, the GEM Center for Science and Environmental Outreach at Michigan Technological University has produced an Environmental Consultant Directory. This directory includes information on how to select a consultant, along with a partial listing of firms offering services in Michigan’s Upper Peninsula.

You can order the GEM *“Environmental Consultant Directory”* by calling 906-487-3341 or download it at http://emmap.mtu.edu/gem/community/consultant/consult_rev.html.



Deadlines for BEA submittals:

The administrative rules for BEAs (**R 299.5901 - 5919**) include specific time frames that must be met regarding these assessments. If you want to take advantage of the liability protection under **Part 201** as a new owner/operator, you must address ALL of the following:

- If contamination exceeds **Part 201** generic residential criteria (i.e., the property is a “facility”), conduct an adequate BEA prior to or within 45 days after the purchase, occupancy, or foreclosure of the property, whichever occurs first.
- Complete your BEA report no later than 15 days after the latest time allowed to conduct the BEA.
- Submit a copy of your BEA report to the DEQ within eight months of the date of purchase, occupancy, or foreclosure. If you do not submit the BEA to the DEQ within the allowable time frame, you will be liable for cleaning up the existing contamination.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY ENVIRONMENTAL RESPONSE DIVISION		FOR DEQ USE ONLY	
		Petition #:	
		Check #:	
		Amount \$:	
		Payer:	
		Index: 45021 PCA-31400 DBJ-9135	
PETITION FOR BASE LINE ENVIRONMENTAL ASSESSMENT DETERMINATION and OPTIONAL DETERMINATION OF COMPLIANCE WITH SECTION 20107a (FORM EQP4445(Rev.3/99)) (Under the authority of Part 201, 1994 Act 451, as amended, and the Rules promulgated thereunder)			
All of the following questions must be answered. If any information is missing, the petition for Baseline Environmental Assessment (BEA) determination ("the petition") will be returned unreviewed.			
Name and address of petitioner* (individual or legal entity):	Status relative to the property: Former <input type="checkbox"/> Current <input type="checkbox"/> Prospective <input type="checkbox"/> Owner* <input type="checkbox"/> Operator* <input type="checkbox"/>	Address/location of property where BEA was conducted:	
County:			
Provide the property tax identification number(s) or, if applicable, the ward and item number(s) for the property identified in the BEA. Required pursuant to Rule 907.			
Contact person representing petitioner: _____ Contact's Telephone #:			
If the address of the petitioner is different from the address that should be used to correspond with the petitioner's contact person, please provide the contact person's address:			
Check the appropriate response to each of the following questions.			
1. Is it known that the source of contamination at the property is primarily from any of the following? YES NO			
• A leaking underground storage tank (UST) regulated under Part 213, 1994 PA 451, as amended. <input type="checkbox"/> <input type="checkbox"/>			
• A licensed landfill or solid waste management facility. <input type="checkbox"/> <input type="checkbox"/>			
• A licensed hazardous waste treatment, storage, or disposal facility. <input type="checkbox"/> <input type="checkbox"/>			
• Oil and gas development related activities. <input type="checkbox"/> <input type="checkbox"/>			
The source of the release that resulted in this property becoming a "facility" will determine which DEQ division will review your petition.			
2. Based on the Part 201 Rules, this BEA is a: Category N <input type="checkbox"/> Category D <input type="checkbox"/> Category S <input type="checkbox"/>			
3. Are USTs or discarded or abandoned containers identified in the BEA? If yes, this information must be provided on Form EQP4476. YES NO <input type="checkbox"/> <input type="checkbox"/>			
EQP4445 (Rev.3/99) Page 1 of 2		39 Appendix C Appendix F	

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY ENVIRONMENTAL RESPONSE DIVISION		FOR DEQ USE ONLY	
		BEA Disclosure #:	
DISCLOSURE OF A BASELINE ENVIRONMENTAL ASSESSMENT (FORM EQP4446(Rev.3/99)) (Under the authority of Part 201, 1994 Act 451, as amended, and the Rules promulgated thereunder)			
DO NOT use this form for requesting a Baseline Environmental Assessment ("BEA") adequacy determination, OR if the property is not a facility. OR if the BEA was completed before the effective date of the BEA rules. Please answer the following questions as completely as possible.			
Name and address of submitter* (individual or legal entity):	Status relative to the property: Former <input type="checkbox"/> Current <input type="checkbox"/> Prospective <input type="checkbox"/> Owner* <input type="checkbox"/> Operator* <input type="checkbox"/>	Address/location of property where BEA was conducted:	
County:			
Provide the property tax identification number(s) or, if applicable, the ward and item number(s) for the property identified in the BEA. Required pursuant to Rule 907.			
Contact person: _____ Telephone #:			
If the address of the person seeking liability protection above is different from the address that should be used to correspond with the contact person, please provide the contact person's address:			
Check the appropriate response to each of the following questions.			
1. Is it known that the source of contamination at the property is primarily from any of the following? YES NO			
• A leaking underground storage tank (UST) regulated under Part 213, 1994 PA 451, as amended. <input type="checkbox"/> <input type="checkbox"/>			
• A licensed landfill or solid waste management facility. <input type="checkbox"/> <input type="checkbox"/>			
• A licensed hazardous waste treatment, storage, or disposal facility. <input type="checkbox"/> <input type="checkbox"/>			
• Oil and gas development related activities. <input type="checkbox"/> <input type="checkbox"/>			
The source of the release that resulted in this property becoming a "facility" will determine which DEQ division will maintain a file regarding this BEA.			
2. Based on the Part 201 Rules, this BEA is a: Category N <input type="checkbox"/> Category D <input type="checkbox"/> Category S <input type="checkbox"/>			
3. Is the property at which the BEA was conducted a "facility" as defined by Section 20101? If the answer to this question is NO, do not submit the BEA to the DEQ. YES NO <input type="checkbox"/> <input type="checkbox"/>			
EQP4446 (Rev.3/99) Page 1 of 2		31 Appendix B Appendix F	

Within six months after you complete your BEA, you can work to complete your Due Care compliance analysis and choose to formally petition the MDEQ to review your BEA and Due Care compliance analysis to make sure the proposed property use satisfies your Due Care obligations. A form is provided to make this petition: *"Petition for Base Line Environmental Assessment Determination and Optional Determination of Compliance with Section 20107a" (EQP 4445)*. The submittal of your Due Care compliance analysis is optional, even if you are asking for a "determination" on the adequacy of your BEA. For more information about your Due Care responsibilities, see Chapter 5.3.

There is a \$750 fee if you want a formal determination on the adequacy of your BEA. The MDEQ will review your BEA for adequacy only if site studies have confirmed that the property is a facility. You have the option not to petition the MDEQ for a determination on the adequacy of your BEA. If you do not petition the MDEQ for a determination, the BEA will receive only a cursory review. The BEA may be reviewed for adequacy by the MDEQ at a later date. If the MDEQ determines at that later date that the BEA was not adequate, you will be liable for existing contamination at the facility.

It is recommended that a prospective purchaser conduct the BEA before completing the real estate transaction to help meet these deadlines. Experience indicates that some loan institutions will want the determination before they will provide mortgages for contaminated parcels of property. For more information about due diligence responsibilities, see Chapter 5.4.1 “Due Diligence.”

Mail your completed BEA to the RRD district supervisor in the area where the property is located (see Appendix C for phone numbers). The RRD will coordinate the BEA/Due Care review process. Within 15 business days after the RRD receives the administratively complete petition for a determination on the adequacy of a BEA, the MDEQ will issue a written determination of whether the review criteria for obtaining an exemption have been met or provide a list of deficiencies that need to be addressed by the end of the six-month period after completion of the BEA. The deficiencies must be addressed before the BEA is adequate to establish liability protection. The BEA Instructions provide detailed information about how to cure deficiencies in a BEA. It is recommended that requests for BEA determinations be submitted soon after BEA completion to allow time to address any deficiencies identified by the MDEQ within the six-month period and before the BEA submittal deadline. The BEA submittal deadline ends six months from the completion date of the BEA.

5.5 Summary

The most important thing to remember is that environmental solutions in Michigan depend on the nature and extent of the contamination and how you want to use the property. Some questions include:

- What types and quantities of contamination are present?
- How will the contamination affect plans to operate and use existing buildings at the facility?
- Is there a chance that people will be exposed to the contamination?
- Are there any underground storage tanks that will either need to be removed or upgraded to new specifications?
- Has the contamination migrated off-site into groundwater, lakes, rivers, creeks, wetlands, surface drains, or other natural resource features?

Each piece of property, each contamination scenario, and each proposed new use is different. The MDEQ is committed to working with owners, operators, and purchasers of contaminated or suspected contamination sites to make it easier and safer to redevelop and reuse property contaminated with **hazardous substances-Part 201**. Completing a BEA can give you liability protection for existing contamination, which means you won't have to pay for cleaning up contamination you didn't cause. Remember, however, that you still have "Due Care" obligations that will help protect persons from exposure.

If you need further information about liability, Due Care, or BEA requirements, please contact your MDEQ RRD district office at www.michigan.gov/deq or call the Environmental Assistance Center at 800-662-9278.



5.6 Where To Go For Help

SUBJECT	Learn how to protect public water supply systems that use ground water from potential sources of contamination
CONTACT	DEQ, Wellhead Protection Program
TELEPHONE	(517) 241-1408
WEB SITE	www.michigan.gov/deq
SUBJECT	Sites of contamination, due care, property transfers, and liability
CONTACT	DEQ, Remediation and Redevelopment Division
TELEPHONE	(517) 373-9837 or (800) 662-9278
WEB SITE	www.michigan.gov/deq
PUBLICATIONS	<ol style="list-style-type: none"> 1. Part 201 Citizens Guide 2. Disclosure of a Baseline Environmental Assessment (EQP 4446) 3. Instructions for Preparing and Disclosing Baseline Environmental Assessments 4. Questions and Answers for BEAs and Due Care 5. Petition for Baseline Environmental Assessment Determination and Optional Determination of Compliance with Section 20107a (EQP 4445) 6. Baseline Environmental Assessments – Administrative Rules 7. Section 20107a “Due Care” – Administrative Rules 8. Instructions for Preparing and Disclosing Baseline Environmental Assessments and Section 7a Compliance Analyses (CA) 9. Avoiding BEA Processing Delays 10. Addresses for Submittals
SUBJECT	Environmental consultants that can perform baseline environmental assessments (BEAs) for facilities located in Michigan’s Upper Peninsula
CONTACT	Michigan Technological University, GEM Center for Science and Environmental Outreach
TELEPHONE	(906) 487-3341
WEB SITE	http://emmap.mtu.edu/gem/community/consultant/consult-rev.html
PUBLICATIONS	<ol style="list-style-type: none"> 1. Environmental Consultant Directory
SUBJECT	Environmental consultants that can perform corrective actions at Leaking Underground Storage Tank sites
CONTACT	DEQ, Remediation and Redevelopment Division
TELEPHONE	(517) 335-7272
WEB SITE	www.michigan.gov/deq
PUBLICATIONS	<ol style="list-style-type: none"> 1. Qualified Consultants (QC) List